

amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

PART C—WATER RESOURCES PROJECTS

§ 4601-12. Recreation and fish and wildlife benefits of Federal multiple-purpose water resources projects; Congressional declaration of policy

It is the policy of the Congress and the intent of this part (a) in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple-purpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation and for fish and wildlife enhancement and that, whenever any such project can reasonably serve either or both of these purposes consistently with the provisions of this part, it shall be constructed, operated, and maintained accordingly; (b) planning with respect to the development of the recreation potential of any such project shall be based on the coordination of the recreational use of the project area with the use of existing and planned Federal, State, or local public recreation developments; and (c) project construction agencies shall encourage non-Federal public bodies to administer project land and water areas for recreation and fish and wildlife enhancement purposes and operate, maintain, and replace facilities provided for those purposes unless such areas or facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

(Pub. L. 89-72, § 1, July 9, 1965, 79 Stat. 213.)

REFERENCES IN TEXT

This part, referred to in text, was in the original "this Act", meaning Pub. L. 89-72, which enacted sections 4601-12 to 4601-21 of this title and amended sections 4601-5(a) and 662(d) of this title.

SHORT TITLE

Section 12 of Pub. L. 89-72 provided: "This Act [enacting this section and sections 4601-13 to 4601-21 of this title and amending sections 4601-5(a) and 662(d) of this title], may be cited as the 'Federal Water Project Recreation Act'."

§ 4601-13. Non-Federal administration of project land and water areas

(a) Allocation of costs

If, before authorization of a project, non-Federal public bodies indicate their intent in writing to agree to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of

the project allocated to recreation, and to bear one-quarter of such costs allocated to fish and wildlife enhancement and not less than one-half the costs of operation, maintenance, and replacement incurred therefor—

(1) the benefits of the project to said purpose or purposes shall be taken into account in determining the economic benefits of the project;

(2) costs shall be allocated to said purpose or purposes and to other purposes in a manner which will insure that all project purposes share equitably in the advantages of multiple-purpose construction: *Provided*, That the costs allocated to recreation or fish and wildlife enhancement shall not exceed the lesser of the benefits from those functions or the costs of providing recreation or fish and wildlife enhancement benefits or reasonably equivalent use and location by the least costly alternative means; and

(3) not more than one-half the separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement and all the joint costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by the United States and be nonreimbursable.

Projects authorized during the calendar year 1965 may include recreation and fish and wildlife enhancement on the foregoing basis without the required indication of intent. Execution of an agreement as aforesaid shall be a prerequisite to commencement of construction of any project to which this subsection is applicable.

(b) Non-Federal share of costs

The non-Federal share of the separable costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the head of the Federal agency having jurisdiction over the project: (1) payment, or provision of lands, interests therein, or facilities for the project; or (2) repayment, with interest at a rate comparable to that for other interest-bearing functions of Federal water resource projects, within fifty years of first use of project recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the project by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

(Pub. L. 89-72, § 2, July 9, 1965, 79 Stat. 214; Pub. L. 93-251, title I, § 77(a)(1), (2), Mar. 7, 1974, 88 Stat. 33; Pub. L. 102-575, title XXVIII, § 2804(a), Oct. 30, 1992, 106 Stat. 4691.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-575 substituted "not less than one-half the costs of operation" for "all the costs of operation" in introductory provisions.

1974—Subsec. (a). Pub. L. 93-251 substituted in text preceding item (1) "separable costs of the project allocated to recreation, and to bear one-quarter of such

costs allocated to fish and wildlife enhancement” for “separable costs of the project allocated to either or both of said purposes, as the case may be” and in item (3) “separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement” for “separable costs”, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 77(b) of Pub. L. 93-251 provided that: “The amendments made by this section [amending this section and section 4601-14 of this title] shall apply to all projects the construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974].”

COST SHARING REQUIREMENTS

Section 77(c) of Pub. L. 93-251 provided that: “In the case of any project (1) authorized subject to specific cost-sharing requirements which were based on the same percentages as those established in the Federal Water Project Recreation Act [section 4601-12 et seq. of this title], and (2) construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974], the cost-sharing requirements for such project shall be the same percentages as are established by the amendments made by subsection (a) of this section [to subsec. (a) of this section and section 4601-14(b)(1) of this title] for projects which are subject to the Federal Water Project Recreation Act [section 4601-12 et seq. of this title].”

§ 4601-14. Facilities or project modifications to be provided without written indication of intent

(a) Other project purposes as justification; public health and safety requirement of minimum facilities at access points; basis for calculation of benefits; nonreimbursable costs

No facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits shall be provided in the absence of the indication of intent with respect thereto specified in section 4601-13(a) of this title unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Calculation of the recreation and fish and wildlife enhancement benefits in any such case shall be based on the number of visitor-days anticipated in the absence of recreation and fish and wildlife enhancement facilities or modifications except as hereinbefore provided and on the value per visitor-day of the project without such facilities or modifications. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be nonreimbursable.

(b) Preservation of recreation and fish and wildlife enhancement potential; execution of agreements within ten year period; disposition of lands in absence of such agreements, prohibition against uses conflicting with project purposes, and preference to uses promoting and not detracting from such potential

Notwithstanding the absence of an indication of intent as specified in section 4601-13(a) of this

title, lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project:

(1) If non-Federal public bodies execute an agreement after initial operation of the project (which agreement shall provide that the non-Federal public bodies will administer project land and water areas for recreation or fish and wildlife enhancement or both pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and will bear not less than one-half the costs of lands, facilities, and project modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement, and not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable thereto) the remainder of the costs of lands, facilities, and project modifications provided pursuant to this paragraph shall be nonreimbursable. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the project, there is not an executed agreement as specified in paragraph (1) of this subsection, the head of the agency having jurisdiction over the project may utilize the lands for any lawful purpose within the jurisdiction of his agency, or may offer the land for sale to its immediate prior owner or his immediate heirs at its appraised fair market value as approved by the head of the agency at the time of offer or, if a firm agreement by said owner or his immediate heirs is not executed within ninety days of the date of the offer, may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case except that of an offer to purchase made, as hereinbefore provided, by the prior owner or his heirs preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

(c) Expansion or modification of existing facilities

(1) Any recreation facility constructed under this part may be expanded or modified if—

(A) the facility is inadequate to meet recreational demands; and

(B) a non-Federal public body executes an agreement which provides that such public body—

(i) will administer the expanded or modified facilities pursuant to a plan for develop-

ment for the project that is approved by the agency with administrative jurisdiction over the project; and

(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.

(Pub. L. 89-72, § 3, July 9, 1965, 79 Stat. 214; Pub. L. 93-251, title I, § 77(a)(3), Mar. 7, 1974, 88 Stat. 33; Pub. L. 102-575, title XXVIII, § 2804(b), (d), Oct. 30, 1992, 106 Stat. 4691.)

REFERENCES IN TEXT

This part, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 89-72, which enacted sections 4601-12 to 4601-21 of this title and amended sections 4601-5(a) and 662(d) of this title.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102-575, § 2804(b), struck out “within ten years” after “execute an agreement” and substituted “not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable” for “all costs of operation, maintenance, and replacement attributable”.

Subsec. (c). Pub. L. 102-575, § 2804(d), added subsec. (c). 1974—Subsec. (b)(1). Pub. L. 93-251 substituted “modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement” for “modifications provided for either or both of those purposes, as the case may be”.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-251, see section 77(b) of Pub. L. 93-251, set out as a note under section 4601-13 of this title.

§ 4601-15. Lease of facilities and lands to non-Federal public bodies

At projects, the construction of which has commenced or been completed as of July 9, 1965, where non-Federal public bodies agree to administer project land and water areas for recreation and fish and wildlife enhancement purposes and to bear the¹ not less than one-half the costs of operation, maintenance, and replacement of existing facilities serving those purposes, such facilities and appropriate project lands may be leased to non-Federal public bodies.

(Pub. L. 89-72, § 4, July 9, 1965, 79 Stat. 215; Pub. L. 102-575, title XXVIII, § 2804(c), Oct. 30, 1992, 106 Stat. 4691.)

AMENDMENTS

1992—Pub. L. 102-575 substituted “not less than one-half the costs of operation” for “costs of operation”.

§ 4601-16. Postauthorization development of projects without allocation or reallocation of costs

Nothing herein shall be construed as preventing or discouraging postauthorization develop-

ment of any project for recreation or fish and wildlife enhancement or both by non-Federal public bodies pursuant to agreement with the head of the Federal agency having jurisdiction over the project. Such development shall not be the basis for any allocation or reallocation of project costs to recreation or fish and wildlife enhancement.

(Pub. L. 89-72, § 5, July 9, 1965, 79 Stat. 215.)

§ 4601-17. Miscellaneous provisions

(a) Project reports; outdoor recreation views; conformity to State comprehensive plan

The views of the Secretary of the Interior developed in accordance with section 4601-2 of this title, with respect to the outdoor recreation aspects shall be set forth in any report of any project or appropriate unit thereof within the purview of this part. Such views shall include a report on the extent to which the proposed recreation and fish and wildlife development conforms to and is in accord with the State comprehensive plan developed pursuant to section 4601-8(d) of this title.

(b) Omitted

(c) Migratory waterfowl refuges at Federal projects; expenditure limitation for acquisition of lands

Expenditures for lands or interests in lands hereafter acquired by project construction agencies for the establishment of migratory waterfowl refuges recommended by the Secretary of the Interior at Federal water resource projects, when such lands or interests in lands would not have been acquired but for the establishment of a migratory waterfowl refuge at the project, shall not exceed \$28,000,000: *Provided*, That the aforementioned expenditure limitation in this subsection shall not apply to the costs of mitigating damages to migratory waterfowl caused by such water resource project.

(d) Nonapplication to certain projects

This part shall not apply to the Tennessee Valley Authority, but the Authority is authorized to recognize and provide for recreational and other public uses at any dams and reservoirs heretofore or hereafter constructed in a manner consistent with the promotion of navigation, flood control, and the generation of electrical energy, as otherwise required by law, nor to projects constructed under authority of the Small Reclamation Projects Act, as amended [43 U.S.C. 422a et seq.], or under authority of the Watershed Protection and Flood Prevention Act, as amended [16 U.S.C. 1001 et seq.].

(e) Nonapplication to certain other projects

Sections 4601-13, 4601-14, 4601-15, and 4601-16 of this title shall not apply to nonreservoir local flood control projects, beach erosion control projects, small boat harbor projects, hurricane protection projects, or to project areas or facilities authorized by law for inclusion within a national recreation area or appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Fed-

¹ So in original. The word “the” probably should not appear.

eral program for the conservation and development of fish and wildlife.

(f) Interpretation of “nonreimbursable”

As used in this part, the term “nonreimbursable” shall not be construed to prohibit the imposition of entrance, admission, and other recreation user fees or charges.

(g) Nonapplication of section 4601-9(a)(2) to nonreimbursable costs of the United States

Section 4601-9(a)(2) of this title shall not apply to costs allocated to recreation and fish and wildlife enhancement which are borne by the United States as a nonreimbursable project cost pursuant to section 4601-13(a) or section 4601-14(b)(1) of this title.

(h) Deposits in Treasury as miscellaneous receipts; deposits of revenue from conveyance of certain lands in Land and Water Conservation Fund

All payments and repayment by non-Federal public bodies under the provisions of this part shall be deposited in the Treasury as miscellaneous receipts, and revenue from the conveyance by deed, lease, or otherwise, of lands under section 4601-14(b)(2) of this title shall be deposited in the Land and Water Conservation Fund.

(Pub. L. 89-72, § 6, July 9, 1965, 79 Stat. 216; Pub. L. 94-576, Oct. 21, 1976, 90 Stat. 2728.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a), (d), (f), and (h), was in the original “this Act”, meaning Pub. L. 89-72, which enacted sections 4601-12 to 4601-21 of this title and amended sections 4601-5(a) and 662(d) of this title.

The Small Reclamation Projects Act, referred to in subsec. (d), is act Aug. 6, 1956, ch. 972, 70 Stat. 1044, as amended, which is classified generally to subchapter IV (§422a et seq.) of chapter 12 of Title 43, Public Lands. For complete classification of this Act to the Code, see section 422k of Title 43 and Tables.

The Watershed Protection and Flood Prevention Act, referred to in subsec. (d), is act Aug. 4, 1954, ch. 656, 68 Stat. 666, as amended, which is classified generally to chapter 18 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Subsec. (b) of this section amended section 662(d) of this title.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-576 authorized recreational and other public uses at dams and reservoirs consistent with promotion of navigation, flood control, and generation of electrical energy.

§ 4601-18. Authority of Secretary of the Interior

(a) Provision of facilities, acquisition of lands, and provision for public use and enjoyment of project lands, facilities, and water areas in coordination with other project purposes; execution of agreements before providing lands, facilities, and project modifications

The Secretary is authorized, in conjunction with any reservoir heretofore constructed by him pursuant to the Federal reclamation laws or any reservoir which is otherwise under his control, except reservoirs within national wildlife refuges, to investigate, plan, construct, op-

erate and maintain, or otherwise provide for public outdoor recreation and fish and wildlife enhancement facilities, to acquire or otherwise make available such adjacent lands or interests therein as are necessary for public outdoor recreation or fish and wildlife use, and to provide for public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with the other project purposes. Lands, facilities and project modifications for the purposes of this subsection may be provided only after an agreement in accordance with subsection (b) or (c) of section 4601-14 of this title has been executed.

(b) Agreements with government agencies to promote development and operation of lands or facilities for recreation and fish and wildlife enhancement purposes

The Secretary of the Interior is authorized to enter into agreements with Federal agencies or State or local public bodies for the administration of project land and water areas and the operation, maintenance, and replacement of facilities and to transfer project lands or facilities to Federal agencies or State or local public bodies by lease agreement or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation and fish and wildlife enhancement purposes.

(c) Transfer of lands; consent of other Federal agencies to use of lands for recreation or fish and wildlife purposes; transfers to Secretary of Agriculture of forest lands; continuing administration of lands and waters for other project purposes; prohibition against limitation of authority under existing provisions of law

No lands under the jurisdiction of any other Federal agency may be included for or devoted to recreation or fish and wildlife purposes under the authority of this section without the consent of the head of such agency; and the head of any such agency is authorized to transfer any such lands to the jurisdiction of the Secretary of the Interior for purposes of this section. The Secretary of the Interior is authorized to transfer jurisdiction over project lands within or adjacent to the exterior boundaries of national forests and facilities thereon to the Secretary of Agriculture for recreation and other national forest system purposes; and such transfer shall be made in each case in which the project reservoir area is located wholly within the exterior boundaries of a national forest unless the Secretaries of Agriculture and Interior jointly determine otherwise. Where any project lands are transferred hereunder to the jurisdiction of the Secretary of Agriculture, the lands involved shall become national forest lands: *Provided*, That the lands and waters within the flow lines of any reservoir or otherwise needed or used for the operation of the project for other purposes shall continue to be administered by the Secretary of the Interior to the extent he determines to be necessary for such operation. Nothing herein shall limit the authority of the Secretary of the Interior granted by existing provisions of law relating to recreation or fish and wildlife development in connection with water

resource projects or to disposition of public lands for such purposes.

(Pub. L. 89-72, § 7, July 9, 1965, 79 Stat. 216; Pub. L. 102-377, title II, § 206, Oct. 2, 1992, 106 Stat. 1332; Pub. L. 102-575, title XXVIII, § 2804(e), Oct. 30, 1992, 106 Stat. 4692.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-575, § 2804(e)(2), substituted “subsection (b) or (c) of section 4601-14” for “subsection 4601-14(b)”.

Pub. L. 102-575, § 2804(e)(1), which directed amendment of subsec. (a) by striking “purposes: *Provided*,” and all that follows through end of sentence and inserting “purposes”, could not be executed because the words “purposes: *Provided*,” did not appear subsequent to amendment by Pub. L. 102-377. See below.

Pub. L. 102-377 substituted “purposes.” for “purposes: *Provided*. That not more than \$100,000 shall be available to carry out the provisions of this subsection at any one reservoir.”

§ 4601-19. Feasibility reports

Effective on and after July 1, 1966, neither the Secretary of the Interior nor any bureau nor any person acting under his authority shall engage in the preparation of any feasibility report under reclamation law with respect to any water resource project unless the preparation of such feasibility report has been specifically authorized by law, any other provision of law to the contrary notwithstanding.

(Pub. L. 89-72, § 8, July 9, 1965, 79 Stat. 217.)

§ 4601-20. Construction of projects under certain laws with allocations to recreation and fish and wildlife enhancement exceeding allocations to other functions unauthorized; exception

Nothing contained in this part shall be taken to authorize or to sanction the construction under the Federal reclamation laws or under any Rivers and Harbors or Flood Control Act of any project in which the sum of the allocations to recreation and fish and wildlife enhancement exceeds the sum of the allocations to irrigation, hydroelectric power, municipal, domestic and industrial water supply, navigation, and flood control, except that this section shall not apply to any such project for the enhancement of anadromous fisheries, shrimp, or for the conservation of migratory birds protected by treaty, when each of the other functions of such a project has, of itself, a favorable benefit-cost ratio.

(Pub. L. 89-72, § 9, July 9, 1965, 79 Stat. 217.)

REFERENCES IN TEXT

This part, referred to in text, was in the original “this Act”, meaning Pub. L. 89-72, which enacted sections 4601-12 to 4601-21 of this title and amended sections 4601-5(a) and 662(d) of this title.

Rivers and Harbors or Flood Control Act, referred to in text, is classified principally to Title 33, Navigation and Navigable Waters.

§ 4601-21. Definitions

As used in this part:

(a) The term “project” shall mean a project or any appropriate unit thereof.

(b) The term “separable costs,” as applied to any project purpose, means the difference be-

tween the capital cost of the entire multiple-purpose project and the capital cost of the project with the purpose omitted.

(c) The term “joint costs” means the difference between the capital cost of the entire multiple-purpose project and the sum of the separable costs for all project purposes.

(d) The term “feasibility report” shall mean any report of the scope required by the Congress when formally considering authorization of the project of which the report treats.

(e) The term “capital cost” includes interest during construction, wherever appropriate.

(Pub. L. 89-72, § 10, July 9, 1965, 79 Stat. 218.)

REFERENCES IN TEXT

This part, referred to in text, was in the original “this Act”, meaning Pub. L. 89-72, which enacted sections 4601-12 to 4601-21 of this title and amended sections 4601-5(a) and 662(d) of this title.

PART D—LAND TRANSFERS

§ 4601-22. Conveyance of property and interests in property in national park system and miscellaneous areas

(a) Freehold and leasehold interests; competitive bidding

With respect to any property acquired by the Secretary of the Interior within a unit of the national park system or miscellaneous area, except property within national parks, or within national monuments of scientific significance, the Secretary may convey a freehold or leasehold interest therein, subject to such terms and conditions as will assure the use of the property in a manner which is, in the judgment of the Secretary, consistent with the purpose for which the area was authorized by the Congress. In any case in which the Secretary exercises his discretion to convey such interest, he shall do so to the highest bidder, in accordance with such regulations as the Secretary may prescribe, but such conveyance shall be at not less than the fair market value of the interest, as determined by the Secretary; except that if any such conveyance is proposed within two years after the property to be conveyed is acquired by the Secretary, he shall allow the last owner or owners of record of such property thirty days following the date on which they are notified by the Secretary in writing that such property is to be conveyed within which to notify the Secretary that such owners wish to acquire such interest. Upon receiving such timely request, the Secretary shall convey such interest to such person or persons, in accordance with such regulations as the Secretary may prescribe, upon payment or agreement to pay an amount equal to the highest bid price.

(b) Exchange of lands; other disposal; equal land values

The Secretary of the Interior is authorized to accept title to any non-Federal property or interest therein within a unit of the National Park System or miscellaneous area under his administration, and in exchange therefor he may convey to the grantor of such property or interest any Federally-owned property or interest therein under his jurisdiction which he de-